

# HOUSE BILL REPORT

## SHB 1778

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### As Amended by the Senate

**Title:** An act relating to modernizing certain provisions in Title 77 RCW regarding fish and wildlife.

**Brief Description:** Modifying various provisions of Title 77 RCW.

**Sponsors:** House Committee on Agriculture & Natural Resources (originally sponsored by Representative Blake; by request of Department of Fish and Wildlife).

### Brief History:

#### Committee Activity:

Agriculture & Natural Resources: 2/10/09, 2/17/09 [DPS];  
General Government Appropriations: 2/25/09 [DPS(AGNR)].

#### Floor Activity

Passed House: 3/11/09, 96-1.  
Senate Amended.  
Passed Senate: 4/14/09, 31-17.

### Brief Summary of Substitute Bill

- Makes a number of housekeeping changes to Title 77.
- Adds additional prongs to the definition of "conviction" as used in Title 77.
- Expands the commercial fishing privileges that the Washington Department of Fish and Wildlife (WDFW) can suspend in the case of multiple violations.
- Includes all rules of the Fish and Wildlife Commission (Commission) in the list of civil infractions that can give rise to a license revocation.
- Changes the name, scope, and jurisdiction of salmon guide licenses.
- Clarifies that secondary buyers of fish are not required to obtain a game fish license as long as the person they bought the fish from did have a license.
- Clarifies that the Commission is authorized to establish the beginning date of the lowland lake fishing season.
- Increases from 15 to 30 the number of big game and turkey raffles the WDFW may offer each year, and allows the revenue to be used for the

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

management of all game species and not just for the improvement of the habitat, health, and welfare of the species subject to the raffle.

- Authorizes the Commission to allow recreational anglers to purchase a stamp allowing them to use two fishing poles at one time.
- Updates statutory references to the State Wildlife Fund to the appropriate name, the State Wildlife Account.
- Eliminates antiquated references to work groups that have terminated and codified provisions regarding reports and other work products that have been completed.

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## HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Blake, Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Jacks, Kretz, Lias, McCoy, Nelson, Ormsby, Pearson, Van De Wege and Warnick.

**Staff:** Jason Callahan (786-7117)

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## HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on Agriculture & Natural Resources be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Armstrong, Blake, Dunshee, Hudgins, Kenney, Pedersen, Sells, Short, Van De Wege and Williams.

**Staff:** Charlie Gavigan (786-7340)

### **Background:**

Title 77 constitutes the majority of the statutes that direct the functions and authorities of the Washington Department of Fish and Wildlife (WDFW). There are a myriad of legal concepts within the 25 chapters that constitute Title 77. These include how and when a citizen can be convicted of a fish or wildlife crime, under what conditions the WDFW can issue a license to engage in some aspect of fish and wildlife-related activities, and how the WDFW manages the wildlife species under their jurisdiction.

### Criminal Convictions.

The Fish and Wildlife Enforcement Code (Code) contains a number of unlawful acts that relate to hunting, fishing, and other wildlife-related activities. Throughout the Code, the term "conviction" is used to assign sanctions to a person found in violation of a fish or wildlife law. For instance, any fish or wildlife unlawfully harvested must be surrendered to the state, but only upon *conviction* of a Code violation. Similarly, the WDFW may revoke the license, tag, or stamp of any person who is *convicted* of a violation of the Code, and must revoke for

one year all of the commercial fishing privileges of a person *convicted* of unlawfully using a non-designated vessel for fishing.

Past convictions also serve as an element of certain crimes in the Code. A person can only be found guilty of the unlawful taking of endangered fish and wildlife in the first degree if that person was *convicted* of the same crime in the second degree within the past five years. Likewise, a *conviction* of a crime related to the taking of big game must be proved before a person can be charged with the unlawful taking of big game in the first degree.

The term "conviction" is defined in the Code to mean:

- a final conviction in court;
- an unvacated forfeiture of bail or other collateral to assure the defendant's appearance in court; and
- a guilty plea.

The WDFW may suspend a person's privilege to fish commercially if the person is convicted two or more times within three years of a commercial fishing violation. The suspension of privileges only applies to the fishery within which the violation occurred.

#### Licensing.

The WDFW offers a taxidermy license and a fur buyer's license to individuals interested in pursuing the commercial aspects of these industries. License holders are required to abide by any rule of the Fish and Wildlife Commission (Commission) relating to the use, possession, display, or presentation of the license. Failure to do so may result in a criminal prosecution of the unlawful use of a commercial wildlife license.

The WDFW also offers a number of short-term fishing licenses. These licenses allow for fishing between one and five days. However, only active duty military personnel may fish during the first eight days of the lowland lake fishing season with a short-term license.

Individuals must obtain a salmon guide license from the WDFW before they are allowed to operate a guide service in freshwater rivers and streams for anglers catching salmon for personal use. The salmon guide license is not necessary if the guide services take place between the mouth of the Columbia River and the Lewis and Clark Bridge in Longview.

The WDFW conducts raffles as a way to grant permission to hunt big game and turkeys during certain limited seasons. Licensed hunters may purchase a raffle ticket, but only raffle winners are permitted to participate in the limited season. Raffle tickets may not exceed \$25. The Commission is allowed to offer hunting opportunities to up to 15 turkey or big game hunters each year through the raffle system.

#### **Summary of Substitute Bill:**

A number of changes are made throughout Title 77 that affect how the WDFW executes its responsibilities and how individuals are expected to interact with the WDFW. Statutory changes can be grouped into the following broad categories: (1) antiquated and redundant references; (2) criminal convictions; and (3) licensing.

### Antiquated and Redundant References.

A number of references to other statutes throughout Title 77 are removed or corrected to reflect current codifications. Examples of these corrected antiquated references are located in sections of the code that deal with criminal convictions and fish passage requirements. In addition, a redundant section of the code relating to wildlife viewing is repealed.

The use of the term "State Wildlife Fund" is updated to "State Wildlife Account" to reflect the correct name of the account as it is used in Title 77. References to work groups that no longer exist are removed from Title 77, such as the Ballast Water Work Group. Also removed are references to studies, reports, and other one-time work products that have been completed by the WDFW.

### Criminal Convictions.

The definition of "conviction" is changed to include the failure to appear at a hearing to contest an infraction or a criminal charge and to clarify that the definition includes a bail forfeiture that serves as a final disposition for an offense. In addition, the section of law that requires license suspensions following a conviction is reorganized with subsections.

The responsibility of the WDFW to revoke a license after a criminal conviction or finding of a civil infraction is expanded to include violations of any rules of the Commission that are punished civilly, and not just violations of rules relating to catch reporting and fishing with barbed hooks. In addition, the WDFW is authorized to suspend all commercial fishing privileges of a person who is convicted multiple times within three years, and not just the privilege of participating in the fishery where the violation occurred.

### Licensing.

The instances of when a holder of a taxidermy or fur buyer's license may be prosecuted for the unlawful use of a commercial wildlife license is expanded to include violations of reporting requirements adopted by the Commission. Also, the activities used to describe when a fur dealer and other wildlife professionals are required to be permitted are changed from activities done for profit to activities that satisfy an existing definition of commercial purposes.

The Commission is clearly authorized to establish the beginning date of the lowland lake fishing season, which sets the eight days that active duty military personnel alone may participate in the fishery with a temporary combination license.

The requirements for having a salmon guide license are expanded to require a license before guiding for any food fish. In addition, the exemption for not needing a guide license below the Lewis and Clark Bridge in Longview on the Columbia River is removed. Although a food fish license is not required, a person charging a fee to allow others to fish from his or her boat must obtain a charter boat license in this segment of the river.

It is made clear that secondary buyers of fish are not required to obtain a game fish license as long as the person they bought the fish from had a license.

The Commission is given the authority to increase from 15 to 30 the number of big game and turkey raffles the WDFW may offer each year. The revenue from the raffles may be used for

the management of all game species, and not just for the improvement of the habitat, health, and welfare of the species subject to the raffle.

The Commission also is given the authority to allow anglers to purchase a stamp allowing them to use two fishing poles at one time. The cost of this addition to a fishing license is \$10 for most anglers, and \$5 for state residents over the age of 69.

**EFFECT OF SENATE AMENDMENT(S):**

Increases the fee set in the House Bill for a stamp allowing the use of two fishing poles from \$10 to \$20, and changes the use of the money collected from game fish enhancement to hatchery management.

Adds a 10 percent surcharge onto the purchase of all recreational hunting and fishing licenses for the 2009-2011 biennium.

Increases the fees for hunting for pheasants in western Washington from \$36 for both residents and non-residents for a full season, \$18 for youths, and \$33 for three-day permits to \$75 for resident full season permits, \$150 for non-resident full season permits, \$35 for youths, \$35 for resident three-day permits, and \$70 for non-resident three-day permits.

Removes a requirement that 80 percent of money in the Eastern Washington Pheasant Enhancement Account be used to purchase or produce pheasants and creates a requirement for an annual report regarding pheasant activities in eastern Washington.

Removes enforcement activities of the Department of Fish and Wildlife from the Uniform Unclaimed Property Act and creates provisions regarding unclaimed property specific to the Department of Fish and Wildlife, including the authority for the Department of Fish and Wildlife to sell, use, destroy, or donate unclaimed confiscated property after 60 days.

Recodifies and alters provisions of law regarding crop damage by wildlife, including the provision of mandatory compensation for the owners of commercial crops and livestock that are damaged by certain wildlife species, discretionary authority to the Department of Fish and Wildlife to provide non-cash compensation to the owners of property that is not commercial crops or livestock that is damaged by wildlife, and the designation of prerequisites for wildlife damage compensation.

Alters the existing law relating to aquatic invasive species, including a requirement that the Department of Fish and Wildlife provide training for local law enforcement, a requirement that any watercraft brought into Washington from a foreign country or a state identified as a source of aquatic invasive species to be pre-inspected and documented as free of aquatic invasive species, and requires the owner of watercraft not bearing the documentation to pay for an inspection, impoundment, confiscation, and decontamination.

Creates a new misdemeanor for the unlawful use of a Department of Fish and Wildlife permit.

Creates a new gross misdemeanor for the unlawful use of an experimental fishing permit or a tribal commercial fishery permit.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony (Agriculture & Natural Resources):**

(In support) This bill was a year in the making and was designed to provide resources to the WDFW without damaging the resources managed by the WDFW.

(Opposed) None.

**Staff Summary of Public Testimony (General Government Appropriations):**

None.

**Persons Testifying (Agriculture & Natural Resources):** Representative Blake, prime sponsor; Ed Owens, Hunters Heritage Council; and Mike Cenci, Washington Department of Fish and Wildlife.

**Persons Testifying (General Government Appropriations):** None.

**Persons Signed In To Testify But Not Testifying (Agriculture & Natural Resources):**  
None.

**Persons Signed In To Testify But Not Testifying (General Government Appropriations):**  
None.